

FRANCIS C. FLAHERTY  
Nevada Bar No. 5303  
CASEY A. GILLHAM  
Nevada Bar No. 11971  
DYER LAWRENCE, LLP  
2805 Mountain Street  
Carson City, Nevada 89703  
(775) 885-1896 telephone  
(775) 885-8728 fax  
[fflaherty@dyerlawrence.com](mailto:fflaherty@dyerlawrence.com)  
[cgillham@dyerlawrence.com](mailto:cgillham@dyerlawrence.com)  
*Attorneys for Petitioner Pine View Estates Homeowners' Association*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

PINE VIEW ESTATES HOMEOWNERS  
ASSOCIATION,

Petitioner,

V.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY,

Respondents.

) Case No. 3:16-CV-00402-MMD-WGC

## STIPULATION TO DISMISS WITH PREJUDICE

TO THE UNITED STATES DISTRICT COURT:

Petitioner, Pine View Estates Home Owners Association ("PVHOA"), and Respondent, United States Environmental Protection Agency ("EPA"), have agreed and hereby stipulate pursuant to FRCP 41(a)(1)(A)(ii) to dismiss this matter with prejudice:

A. This matter involves PVHOA's appeal of a June 2, 2016 compliance order issued by EPA ("Compliance Order").

B. On November 13, 2018, because the appeal was approaching a resolution, the Parties requested a seventh, 90-day stay of this matter until February 7, 2019, and the Court ordered that stay on November 13, 2018 (ECF No. 27).

C. The resolution of this petition is based on the settlement of a related matter. On September 12, 2017, PVHOA and Mark Kizer, another party subject to the Compliance Order, entered into a settlement agreement ("Settlement Agreement") in *Kizer v. PTP, Inc. et al*, Case No.

1 3:15-CV-00120-RCJ-WGC (D. Nev.) (ECF No. 338). There are over 200 defendants in the *Kizer*  
2 case, including all of the individual homeowners in Pine View Estates, PVHOA, and the Bureau of  
3 Indian Affairs (“BIA”). The Settlement Agreement was contingent on the BIA’s approval of the  
4 transfer of land comprising the HOA common areas to the HOA in fee simple, a trust-to-fee  
5 transfer.<sup>1</sup> The fee lands will serve as collateral for a loan, so that the PVHOA can fund its  
6 remediation obligations detailed in the Compliance Order. The BIA approved said trust-to-fee  
7 transfer on October 18, 2017 and that transfer was completed on November 20, 2018. On August  
8 7, 2018, the PVHOA received a loan and grant from the U.S. Department of Agriculture to fund its  
9 remediation obligations as set forth in the Compliance Order.

10 D. The Parties in this case had anticipated lodging a consent decree addressing the  
11 Compliance Order. However, the Parties have since concluded that this matter is better resolved by  
12 way of a letter amendment to the Compliance Order. By letter dated December 3, 2018, the EPA  
13 amended the Compliance Order to remove Mark Kizer as a respondent to the Compliance Order,  
14 which leaves the PVHOA as the sole respondent responsible for meeting the obligations of the  
15 Compliance Order. Upon dismissal of this lawsuit, PVHOA intends to fully meet its obligations  
16 under the Compliance Order, as amended.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 \_\_\_\_\_

28 <sup>1</sup> The BIA held title to the land comprising Pine View Estates in trust on behalf of Kizer.

1 Accordingly, IT IS HEREBY STIPULATED by and between the parties hereto, with the  
2 approval of the Court, as follows: This matter is dismissed with prejudice and each party to bear their  
3 own costs and attorney's fees.  
4

5 Dated: February 6, 2019.

By: /s/ Michael C. Martinez  
Michael C. Martinez (CA Bar No. 275581)  
United States Department of Justice  
Environment and Natural Resources Division  
Environmental Defense Section  
Michael.C.Martinez@usdoj.gov  
Environmental Defense Section  
601 D Street N.W., Suite 8000  
Washington D.C. 20004  
Tel. (202) 514-0135

11 Attorney for Respondent

13 Dated: February 6, 2019.

DYER LAWRENCE, LLP

14 By: /s/ Francis C. Flaherty  
Francis C. Flaherty  
FFlaherty@dyerlawrence.com  
2805 Mountain Street  
Carson City, Nevada 89703  
(775) 885-1896  
FAX: (775) 885-8728

18 Attorney for Petitioner

20 IT IS SO ORDERED:

21   
22 UNITED STATES DISTRICT JUDGE

23 DATED: February 6, 2019.